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08/846, 405	04/30/97	BONEAU	
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M P10600N2

EXAMINER

QM31/0428

RICHARD L KLEIN  
ARTERIAL VASCULAR ENGINEERING  
3576 UNOCAL PLACE  
SANTA ROSA CA 95403

ART UNIT PAPER NUMBER

10

DATE MAILED 38

04/28/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on February 2, 1998

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1 and 4-9 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 4-7 is/are allowed.

☒ Claim(s) 1 and 8-9 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449. Paper No(s). 9

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

Art Unit: 3738

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Pinchuk.

With respect to these claims, see figure 19.

### ***Allowable Subject Matter***

3. Claims 4-7 are allowed.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S. Brittingham whose telephone number is (703) 308-3401. The Examiner's Supervisor, Mickey Yu, may be reached at (703) 308-2672. The group receptionist may be reached at (703) 308-0858.

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Should Applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should Applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.

A handwritten signature in black ink, appearing to read "Debra S. Brittingham", with a large, sweeping flourish extending to the right.

**DEBRA S. BRITTINGHAM  
PRIMARY EXAMINER  
ART UNIT 3738**

dsb  
April 27, 1998